

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

DOMINIQUE ZAFIR CASEY,
Plaintiff,
v.
HADDAD, et al.,
Defendants.

Case No.: 1:21-cv-00855-ADA-SKO (PC)

**ORDER VACATING FINDINGS AND
RECOMMENDATIONS TO DISMISS
ACTION FOR FAILURE TO OBEY COURT
ORDERS AND FAILURE TO PROSECUTE**

(Doc. 22)

Plaintiff Dominique Zafir Casey is proceeding *pro se* in this civil rights action brought pursuant to 42 U.S.C. § 1983.

I. RELEVANT PROCEDURAL BACKGROUND

On January 12, 2023, the Court issued its First Screening Order. (Doc. 19.) The Court determined Plaintiff had failed to state a cognizable claim against any named defendant. (*Id.* at 6-10.) Plaintiff was afforded 21 days within which to file a first amended complaint curing the deficiencies identified in the order, or, alternatively, to file a notice of voluntary dismissal. (*Id.* at 10.)

On January 30, 2023, Plaintiff filed a document titled “Refering [sic] to FIRST SCREENING ORDER.” (Doc. 20.)

On February 2, 2023, the Court issued an “Order to Show Cause In Writing Why This Action Should Not Be Dismissed For Failure to Obey Court Order” (OSC). (Doc. 21.) Plaintiff

1 was advised his January 30, 2023 filing did not comply with the screening order because it was
2 neither a first amended complaint, complete in and of itself, nor a voluntary dismissal. (*Id.* at 2-3.)
3 Plaintiff was afforded 21 days within which to explain, in writing, his failure to file either a first
4 amended complaint or a notice of voluntary dismissal, or, alternatively, to file the first amended
5 complaint or voluntary dismissal. (*Id.* at 3.)

6 On March 3, 2022, this Court issued its “Findings and Recommendations to Dismiss
7 Action for Failure to Obey Court orders and Failure to Prosecute.” (Doc. 22.) That same date, but
8 after the Findings and Recommendations had issued, Plaintiff filed a First Amended Complaint
9 (FAC).¹ (Doc. 23.)

10 **II. CONCLUSION AND ORDER**

11 Plaintiff complied with this Court’s OSC by filing his FAC, despite the delay between his
12 signing the FAC on February 18, 2023, and the Court’s receipt of the FAC on March 3, 2023.
13 Because Plaintiff complied with the OSC by forwarding his FAC within 21 days of service of the
14 OSC, the Findings and Recommendations issued March 3, 2023, are **HEREBY VACATED**.

15 Plaintiff is advised his First Amended Complaint will be screened in due course.

16 IT IS SO ORDERED.

17 Dated: March 6, 2023

/s/ Sheila K. Oberto
18 UNITED STATES MAGISTRATE JUDGE

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¹ The Court received the First Amended Complaint on March 3, 2023, although Plaintiff signed and dated
the pleading on February 18, 2023.